



UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge Fred E. McKelvey
Telephone: 571-272-9797
Facsimile: 571-273-0042

MAILED

FEB 13 2006

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Applicants: DUMOUTIER
Application No.: 09/915,735
Filed: 07/26/01
For: Novel class II cytokine receptors and uses
thereof

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,417.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/ss/ Fred E. McKelvey
FRED E. McKELVEY
Senior Administrative Patent Judge

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2 The opinion in support of the decision being
3 entered today is not binding precedent of the board.
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10

Paper 1

11 Filed by:

12 Fred E. McKelvey
13 Senior Administrative Patent Judge
14 Mail Stop Interference
15 P.O. Box 1450
16 Alexandria Va 22313-1450
17 Tel: 571-272-9797
18 Fax: 571-273-0042

19 Filed 13 February 2006

20 UNITED STATES PATENT AND TRADEMARK OFFICE

21 BEFORE THE BOARD OF PATENT APPEALS
22 AND INTERFERENCES
23 (Senior Administrative Patent Judge McKelvey)

24 PENG LIANG,
25 Junior Party
26 (Patent 6,902,930 B2),

27 v.

28 LAURE DUMOUTIER and JEAN-CHRISTOPHE RENAUDL,

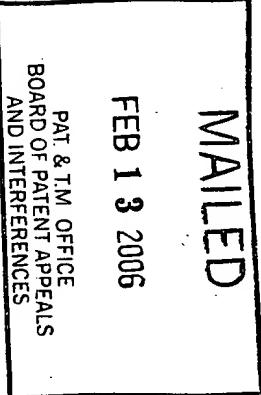
29 Senior Party
30 (Application 09/915,735).

31 Patent Interference 105,417 (McK)
32 Technology Center 1600

33 DECLARATION
34 37 CFR § 41.203(b)

35 Part A.
36 Declaration of interference

37 1. An interference is declared between the above-
38 identified parties. 35 U.S.C. § 135(a); 37 CFR § 41.203(b).
39 2. Details of the application, patent, count and
40 claims designated as corresponding or as not corresponding to the
41 count appear in Parts E and F of this DECLARATION.



Part B.
Judge managing the interference

Senior Administrative Patent Judge McKelvey has been designated to manage the interference. 37 CFR § 41.104(a).

**Part C.
Standing order**

1. A Trial Division STANDING ORDER (3 Jan. 2006)

(Paper 2) accompanies this DECLARATION.

10 2. The STANDING ORDER applies to this interference,
11 including the provisions related to Electronic Filing. See
12 ¶ 105, pages 17-20.

Part D.
Initial conference call and motions lists

Conference call

1. A conference call to discuss the interference is

4:00 p.m. (1600 hours Eastern time) on 10 April 2006.

2. The board will initiate the call

Motions lists

3 On or before:

noon (1200 hours Eastern time) on 06 April 2006,

in a shell file and run or before:

5:00 p.m. (1700 hours Eastern time) on 06 April 2006.

1 each party shall serve, a notice stating the relief the party
2 requests, i.e., a motions list including motions the party seeks
3 authorization to file. 37 CFR § 41.120(a); STANDING ORDER ¶ 204,
4 (Paper 2, page 58).

5 4. The default procedure for filing and serving its
6 motions lists are to be filed before being served.

7 5. The following shall be included in any motions
8 list:

9 (1) Proposed motion for benefit must identify the
10 application(s) for which benefit will be
11 sought.

12 (2) Proposed motion to attack benefit must
13 identify the application(s) being attacked.

14 (3) Proposed motion seeking judgment against an
15 opponent based on alleged unpatentability
16 must identify the statutory basis for the
17 alleged unpatentability and:

18 (a) if based on the prior art, identify the
19 prior art;

20 (b) if based on the first paragraph of
21 35 U.S.C. § 112, identify whether
22 written description, enablement and/or
23 best mode will be the basis of the
24 proposed motion;

25 (c) if based on no interference-in-fact,
26 briefly identify the reason;

27 (d) if based on an alleged failure to comply
28 with 35 U.S.C. § 135(b), briefly
29 identify the reason;

- (e) if claim correspondence is involved,
 - identify any claim to be designated as corresponding or not corresponding to the count;
- (f) if a new count is to be sought, identify the new count.

6. By filing before service, one party will not have access to an opponent's motions list prior to filing the party's motions list.

7. Nevertheless, the parties may mutually agree to discuss and serve motions lists at any time prior to the date and time motions lists are due.

8. A motions list shall not contain any "reservation clause" whereby a party attempts to reserve a right to file additional motions. Additional motions are those authorized by the board consistent with the rules.

9. A sample schedule for taking action during the motion phase appears as Form 2 (page 69) in the STANDING ORDER.

10. Counsel are encouraged to discuss the schedule prior to the conference call and to agree, essentially consistent with the sample schedule, on dates for taking action.

11. A typical motion period lasts approximately eight (8) months.

12. Counsel should be prepared to justify any request for a shorter or longer period.

Part E.

Identification of the parties
Assignment of exhibit numbers
Initiating settlement discussions

Junior Party¹

Named inventor: Peng Liang, TN

Patent:² U.S. Patent 6,902,930 B2
issued 7 June 2005
based on application 10/233,873
filed 29 August 2002

Title: Human Mob-5 (IL-24) receptors and Uses thereof

Assignee: Vanderbilt University

¹ The junior party is the party with the latest accorded priority date as set out in this DECLARATION. 37 CFR § 41.201 (definition of "Senior party"); 37 CFR § 41.207(a)(1).

² The file is an Image File Wrapper (IFW), not a paper file.

A maintenance fee is not yet due on the patent.

Senior Party³

Named inventors: *Laure Dumoutier, Belgium*
Jean-Christophe Renauld, Belgium

Application: ⁴ Application 09/915,735
filed 26 July 2001

Title: Novel class II cytokine receptors and uses thereof

Assignee: Ludwig Institute for Cancer Research

³ The senior party is the party with the earliest accorded priority date as set out in this DECLARATION. 37 CFR § 41.201 (definition of "Senior party"); 37 CFR § 41.207(a)(1).

* The file is an Image File Wrapper (IFW), not a paper file.

**Assignment of exhibit numbers
37 CFR § 41.154(c)(1)**

1. The senior party is assigned exhibit numbers:
1001-1999
2. The junior party is assigned exhibit numbers:
2001-2999
3. If necessary, the board will use exhibit numbers:
3001-3999

Initiating settlement discussions
STANDING ORDER ¶ 126.1 (Paper 2, pages 40-41)

14 4. The senior party is responsible for initiating
15
16 settlement discussions.

Part F.

Count 1

A composition of matter according to claim 1 of U.S. Patent 6,902,930 B2

or

a composition of matter according to claim 1 (as amended on 1 December 2005) of application 09/915,735.

Liang claim 1

An isolated composition comprising a complex between human IL-22R1 and human IL-20R2.

Dumoutier claim 1

An isolated complex comprising a human interleukin-22 receptor molecule and a human interleukin-20 receptor β molecule.

1 The claims of the parties are:

2 Liang 1-4

3 Dumoutier 1

4 The claims of the parties which correspond to Count 1 are:

5 Liang 1-4

6 Dumoutier 1

7 The claims of the parties which do not correspond to Count 1

8 are:⁵

9 Liang None

10 Dumoutier None

11 The parties are accorded the following priority benefit for

12 Count 1:

13 Liang: Provisional application 60/315,684,⁶
14 filed 29 August 2001

15 Dumoutier: None

⁵ A claim which does not correspond to any count is not involved in the interference within the meaning of 35 U.S.C. § 135(a).

⁶ The file is a paper file, not an Image File Wrapper (IFW) file.

Part G.
Heading to be used on papers

The following heading must be used on all papers filed in this interference. STANDING ORDER ¶ 106.1.1 (Paper 2, page 20).

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Senior Administrative Patent Judge McKelvey)

PENG LIANG,
Junior Party
(Patent 6,902,930 B2),

v.

LAURE DUMOUTIER and JEAN-CHRISTOPHE RENAUD,

Senior Party
(Application 09/915,735).

Patent Interference 105,417 (McK)
Technology Center 1600

Part H.
Order form for requesting file copies

1. When requesting copies of files, a party shall use

4 STANDING ORDER Form 4 (page 71).

2. Use of Form 4 will expedite processing of any

6 request.

3. A party should attach to any request for file

copies a photocopy of Part E of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

4. The parties are advised that a single order for

12 files may be filled by the Office of Public Records at more than
13 one time, particularly in a case like the present case where both

Image File Wrapper (IFW) and paper files are involved. STANDING ORDER ¶ 109.2 (Paper 2, pages 25-27).

Part I.
Required paragraph for affidavits and declarations

1. The board has experienced cases in which a witness has belatedly advanced reasons why the witness would be unable to appear for cross examination at a reasonable time and place in the United States.

2. Consequently, to prevent surprise and hardship to the party relying on the testimony of the witness, the following paragraph must be included on the signature page of all affidavits (including declarations) filed in this case .

STANDING ORDER ¶ 157.2 (Paper 2, pages 52-53):

In signing this affidavit (declaration), I understand that the affidavit (declaration) will be filed as evidence in a contested case before the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office. I also acknowledge that I may be subject to cross examination in the case and that cross examination will take place within the United States. If cross examination is required of me, I will appear for cross examination within the United States during the time allotted for cross examination.

/ss/Fred E. McKelvey

FRED E. MCKELVEY,
Senior Administrative Patent Judge⁷

13 February 2006
Entered at: Alexandria, VA

As part of board efforts under the government Paperwork Elimination Act, signatures on papers originating from the board have been phased out in favor of a completely electronic record. Consequently, in this case papers originating at the board will not have signatures. The signature requirements for the parties have not changed. See, e.g., 37 CFR § 10.18 (2005).

1 Enc:

2
3 STANDING ORDER (3 Jan. 2006) (Paper 2)
4 NOTICE OF REQUEST FOR ASSISTANCE ON TECHNOLOGY
5 and ORDER (Paper 3)

6
7 The following additional documents (1) are provided to
8 permit the parties to gain an early appreciation of the nature of
9 the interference and (2) do not constitute complete copies of any
10 file. They are not part of the record of the interference and
11 cannot be relied upon in the future merely because they are
12 enclosed with this DECLARATION. If a party would like any of the
13 following documents considered in the interference, the party
14 should make the document an exhibit and offer the exhibit in
15 evidence.

16
17 (1) Form 850 (received at the board on 12 January 2005)
18 (2) Bibliographic data sheets
19 (3) Dumoutier Patent Assignment Abstract of Title
20 (4) Dumoutier claim 1 as amended 1 December 2005
21 (5) Application 09/915,375 (as filed)--for sequences, see
22 Response to Communication
23 (6) U.S. Patent 6,902,930 B2
24 (7) Restriction requirement entered by the examiner on
25 20 September 2002
26 (8) Response to Communication filed by Dumoutier on 15
27 October 2004
28 (9) Blumberg, Interleukin 20: Discovery, Receptor
29 Identification, and Role of Epidermal Function,
30 104 Cell 9 (2001)
31 (10) Kotenko, Identification of the Functional Interleukin-
32 22 (IL-22) Receptor Complex, 276 The Journal of
33 Biological Chemistry 2725 (2001)
34 (11) Xie, Interleukin (IL)-22, a Novel Human Cytokine That
35 Signals through the Interferon Receptor-related
36 Proteins CRF2-4 and IL-22R, 275 The Journal of
37 Biological Chemistry 31335 (2000)

1 cc (via overnight delivery with all enclosures
2 via Electronic mail with only Paper 2 and Paper 3):
3

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